

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION

NO. 5:08 -CR-282-2F

UNITED STATES OF AMERICA	)	
	)	
v.	)	
	)	<u>ORDER</u>
	)	
DONALD STANTON SHEALEY	)	

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This matter is before the court on Donald Shealey's Motion for Return of Property/Post Trial, [DE-400] pursuant to Rule 41(g) of the Federal Rules of Criminal Procedure. After a multi-week trial, on March 24, 2009, Donald Shealey was found guilty on all eight counts charged in the Superseding Indictment [DE-286]. On July 14, 2009, Shealey was sentenced to a term of prison for the duration of his natural life, a supervised release term of ten years, a fine of \$5,000,000.00 and ordered to pay a special assessment of \$800. [DE-313]. After sentencing, a Notice of Appeal [DE-314] was filed, and this case is now pending before the Fourth Circuit Court of Appeals.

This matter involved multiple defendants charged in a heroin, cocaine and crack cocaine conspiracy as charged by Indictment on September 24, 2008 [DE-3]. In addition to the drug conspiracy, the defendants, including Shealey were charged in a multitude of other drug, gun and racketeering counts. [DE-175]. All of the defendants except Shealey pleaded guilty to one or more of the counts in the Indictment and/or Superseding Indictment. Shealey, however, proceeded to trial and ultimately was found guilty of each of the eight counts in which he was charged.

On April 29, 2010, Shealey filed his instant motion for the return of his property post trial [DE-400]. On July 12, 2010, the Government filed its response [DE-409]. This matter is now ripe for disposition.

The criminal matter over which this court had jurisdiction was closed after Shealey's July 14, 2009 sentencing. The 1972 Chevrolet and the \$32,960.00 in currency that Shealey now seeks to be returned to him is the subject of an administrative forfeiture [DE-55]. See *Ibarra v. United States*, 120 F.3d 472, 476 (4th Cir. 1997)(administrative forfeiture proceeding divests the court of jurisdiction). Although Shealey contends he was not served with notice of the administrative proceedings, the Government has supplied the court, and Shealey, with a detailed description of the notice it provided, including serving Shealey at the place of his incarceration. [DE-409] Decl. John Hieronymus. Therefore, Mr. Shealey's Motion for Return of Property [DE-400] is DENIED.

So ORDERED this the 15<sup>th</sup> day of July, 2010.

  
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JAMES C. FOX  
Senior United States District Judge